

Amend Section 30-757 to read:

Post-hearing: Amend Sections 30-757.17 et seq. to read:

30-757 PROGRAM SERVICE CATEGORIES AND TIME GUIDELINES

30-757

.1 Only those services specified in Sections 30-757.11 through .19 shall be authorized through IHSS. A person who is eligible for a personal care service provided pursuant to the PCSP shall not be eligible for that personal care service through IHSS. A service provided by IHSS shall be equal to the level of the same service provided by PCSP.
(Continued)

.17 Protective Supervision consists of observing recipient behavior and intervening as appropriate in order to safeguard the recipient against injury, hazard, or accident.

.171 Protective Supervision is available for observing the behavior of nonself-directing, confused, mentally impaired, or mentally ill persons only.

(a) Protective Supervision may be provided through the following, or combination of the following arrangements:

(1) In-Home Supportive Services program;

(2) Alternative resources such as adult or child day care centers, community resource centers, Senior Centers; respite centers;

(3) Voluntary resources.

~~(4) A reassurance phone service when feasible and appropriate.~~

.172 Protective Supervision shall not be authorized:

(a) For friendly visiting or other social activities;

(b) When the need is caused by a medical condition and the form of the supervision required is medical.

(c) In anticipation of a medical emergency;

(d) To prevent or control anti-social or aggressive recipient behavior.

(e) To guard against deliberate self-destructive behavior, such as suicide, or when an individual knowingly intends to harm himself/herself.

.173 Protective Supervision is only available under the following conditions as determined by social service staff:

- (a) At the time of the initial assessment or reassessment, a need exists for twenty-four-hours-a-day of supervision in order for the recipient to remain at home safely.
 - (1) For a person identified by county staff to potentially need Protective Supervision, the county social services staff shall request that the form SOC 821 (~~44/05~~ 3/06), "Assessment of Need for Protective Supervision for In-Home Supportive Services Program," which is incorporated by reference, be completed by a physician or other appropriate medical professional to certify the need for Protective Supervision and returned to the county.
 - (A) For purposes of this regulation, appropriate medical professional shall be limited to those with a medical specialty or scope of practice in the areas of memory, orientation, and/or judgment.
 - (2) The form SOC 821 (~~44/05~~ 3/06) shall be used in conjunction with other pertinent information, such as an interview or report by the social service staff or a Public Health Nurse, to assess the person's need for Protective Supervision.
 - (3) The completed form SOC 821 (~~44/05~~ 3/06) shall not be determinative, but considered as one indicator of the need for Protective Supervision.
 - (4) In the event that the form SOC 821 (~~44/05~~ 3/06) is not returned to the county, or is returned incomplete, the county social services staff shall make its determination of need based upon other available information.

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- (5) Other available information can include, but is not limited to, the following:
 - (A) A Public Health Nurse interview;
 - (B) A licensed health care professional reports;
 - (C) Police reports;
 - (D) Collaboration with Adult Protective Services, Linkages, and/or other social service agencies;
 - (E) The social service staff's own observations.

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- (b) At the time of reassessment of a person receiving authorized Protective Supervision, the county social service staff shall determine the need to renew the form SOC 821 (~~11/05~~ 3/06).
 - (1) A newly completed form SOC 821 (~~11/05~~ 3/06) shall be requested if determined necessary, and the basis for the determination shall be documented in the recipient's case file by the county social service staff.
 - (c) Recipients may request protective supervision. Recipients may obtain documentation (such as the SOC 821) from their physicians or other appropriate ~~health-care~~ medical professionals for submission to the county social service staff to substantiate the need for protective supervision.
- .174 Social services staff shall explain the availability of protective supervision and discuss the need for twenty-four-hours-a-day supervision with the recipient, or the recipient's parent(s), or the recipient's guardian or conservator, and the appropriateness of out-of-home care as an alternative to Protective Supervision. (Continued)

Authority cited: Sections 10553, 10554, ~~and~~ 12300(b), 12301.1 and 12301.21, Welfare and Institutions Code; and Chapter 939, Statutes of 1992.

Reference: Peremptory Writ of Mandate, Disabled Rights Union v. Woods, Superior Court, Los Angeles County, Case #C 380047; Miller v. Woods/Community Services for the Disabled v. Woods, Superior Court, San Diego County, Case Numbers 468192 and 472068; and Sections 12300, 12300(b), 12300(c)(7), 12300(f), 12300(g), 12300.1, and 12301.21, Welfare and Institutions Code.

Amend Section 30-761 to read:

Post-hearing: Amend Section 30-761.216(b)(1) and Handbook Sections 30-761.213 and .214 to read:

30-761 NEEDS ASSESSMENT STANDARDS

30-761

.1 Services shall be authorized only in cases which meet the following conditions:
(Continued)

.12 A needs assessment establishes a need for the services identified in Section 30-757 consistent with the purposes of the IHSS program, as specified in Section 30-700.1, except as provided in Section 30-759.8.

.13 Social services staff of the designated county department has had a face-to-face contact with the recipient in the recipient's home at least once within the past 12 months, except as provided in Sections 30-761.215 through .217, and has determined that the recipient would not be able to remain safely in his/her own home without IHSS. If the face-to-face contact is due but the recipient is absent from the state but still eligible to receive IHSS pursuant to the requirements stated in Section 30-770.4, Residency, the face- to-face requirement is suspended until such time as the recipient returns to the state. (Continued)

.2 Needs Assessments

.21 Needs assessments are performed: (Continued)

.212 Prior to the end of the twelfth calendar month from the last face-to-face assessment except as provided in Sections 30-761.215 through .217.

(a) If a reassessment is completed before the twelfth calendar month, the month for the next reassessment shall be adjusted to the 12-month requirement except as provided in Section 30-761.215 through .217.

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.213 Example: If a recipient's initial face-to-face assessment for IHSS was completed on December 12th, the county may complete the next reassessment anytime prior to December 31st of the following year.

.214 Example: If a reassessment is completed on September 15th, prior to the actual twelfth calendar month because of a change in the recipient's condition, the next reassessment shall occur anytime prior to September 30th of the following year.

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.215 Except for IHSS Plus Waiver cases, prior to the end of the eighteenth calendar month from the last reassessment if the county opted to extend the assessment in accordance with these regulations. A county may opt to extend the time for reassessment for up to six months beyond the regular 12-month period on a case-by-case basis if the county can document that all the following conditions exist, except as provided in Section 30-761.216:

- (a) The recipient had at least one reassessment since the initial program intake assessment; and
- (b) The recipient's living arrangement has not changed since the last annual assessment; and:
 - (1) The recipient lives with others (i.e., spouse, parent, live-in provider, housemate, children, a relative or non-relative); or
 - (2) Has regular meaningful contact with persons interested in the recipient's well being other than his/her provider; and
- (c) The recipient is able to satisfactorily direct his/her care; or:
 - (1) If the recipient is a minor, his/her parent or legal guardian is able to satisfactorily direct the recipient's care; or
 - (2) If the recipient is incompetent, his/her conservator is able to satisfactorily direct the recipient's care; and
- (d) There has not been any known change in the recipient's supportive services needs in the previous 24 months; and
- (e) There have not been any reports to, or involvements of, an adult protective services agency or other agencies responsible for addressing the health and safety of individuals documented in the case record since the last assessment; and
- (f) The recipient has not had a change in provider(s) in the previous six months; and
- (g) The recipient has not reported a change in his/her supportive services needs that requires a reassessment; and
- (h) The recipient has not been hospitalized in the previous three months.

.216 If some, but not all, conditions specified in Section 30-761.215(a) through (h) are met, the county may consider other factors in determining if the extended assessment period is appropriate. The factors include, but are not limited to:

- (a) Involvement in the recipient's care from a social worker case manager or similar representative of a human services agency, such as Multi Services Seniors Program (MSSP), Linkages, a regional center, or county mental health program; or
- (b) Prior to the end of the twelfth calendar month following the last assessment, the county receives a medical report from a physician or other licensed health care professional that states the recipient's medical condition is not likely to change.
 - (1) For purposes of this regulation, a licensed health care professional means a medical professional licensed in California by the appropriate California Regulatory Agency, acting within the scope of his or her license or certificate as defined in the California Business and Professions Code, and who has knowledge of the recipient's medical history.

.217 If the county opts to extend the reassessment period as provided in Section 30-761.215 through .216, the county shall document the basis of the decision in the case file.

.218 When the county has information indicating that the recipient's need for supportive services is expected to decrease in less than 12 months, the county may reassess the recipient's needs in less than 12 months since the last assessment.

.219 The county shall reassess the recipient's need for services:

- (a) Any time the recipient notifies the county of a need to adjust the service hours authorized due to a change in circumstances; or
- (b) When there is other pertinent information which indicates a change in circumstances affecting the recipient's need for supportive services.

.22 (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 12301.1 and 14132.95, Welfare and Institutions Code; and the State Plan Amendment, approved pursuant to Section 14132.95(b), Welfare and Institutions Code.

ASSESSMENT OF NEED FOR PROTECTIVE SUPERVISION FOR IN-HOME SUPPORTIVE SERVICES PROGRAM

☐ Release of Information Attached

Attending	PATIENT'S NAME:	PATIENT'S DOB: / /
Physician's /	MEDICAL ID#: (IF AVAILABLE)	COUNTY ID#:
Medical Professional's	IHSS SOCIAL WORKER'S NAME:	
mailing address	COUNTY CONTACT TELEPHONE #:	COUNTY FAX #:

Your patient is an applicant/recipient of **In-Home Supportive Services (IHSS)** and is being assessed for the need for Protective Supervision. Protective Supervision is available to safeguard against accident or hazard by observing and/or monitoring the behavior of non self-directing, confused, mentally impaired or mentally ill persons. This service is not available in the following instances:

- (1) When the need for protective supervision is caused by a physical condition rather than a mental impairment;
- (2) For friendly visitation or other social activities;
- (3) When the need for supervision is caused by a medical condition and the form of supervision required is medical;
- (4) In anticipation of a medical emergency (such as seizures, etc.);
- (5) To prevent or control antisocial or aggressive recipient behavior.

Please complete this form and return it promptly. Thank you for your assisting us in determining eligibility for Protective Supervision.
(Welfare and Institutions Code §12301.21)

DATE PATIENT LAST SEEN BY YOU:	LENGTH OF TIME YOU HAVE TREATED PATIENT:
DIAGNOSIS/MENTAL CONDITION:	PROGNOSIS: <input type="checkbox"/> Permanent <input type="checkbox"/> Temporary - Timeframe: _____

PLEASE CHECK THE APPROPRIATE BOXES

MEMORY

- ☐ No deficit problem ☐ Moderate or intermittent deficit (explain below) ☐ Severe memory deficit (explain below)

Explanation: _____

ORIENTATION

- ☐ No disorientation ☐ Moderate disorientation/confusion (explain below) ☐ Severe disorientation (explain below)

Explanation: _____

JUDGMENT

- ☐ Unimpaired ☐ Mildly Impaired (explain below) ☐ Severely Impaired (explain below)

Explanation: _____

1. Are you aware of any injury or accident that the patient has suffered due to deficits in memory, orientation or judgment? ☐ Yes ☐ No
If Yes, please specify: _____
2. Does this patient retain the mobility or physical capacity to place him/herself in a situation which would result in injury, hazard or accident? ☐ Yes ☐ No
3. Do you have any additional information or comments? _____

CERTIFICATION

I certify that I am licensed to practice in the State of California and that the information provided above is correct.

SIGNATURE OF PHYSICIAN OR MEDICAL PROFESSIONAL:	MEDICAL SPECIALTY:	DATE:
ADDRESS:	LICENSE NO.:	TELEPHONE: ()

RETURN THIS FORM TO: COUNTY'S MAILING ADDRESS, CITY, CA.; ATTN: SW-NAME